

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 7056 OF 2020 (L-RES)

BETWEEN:

M/S FOURESS ENGINEERING (INDIA) LIMITED,
PLOT NO.2, 2ND PHASE,
PEENYA INDUSTRIAL AREA,
BENGALURU - 560058,
REPRESENTED BY ITS
SENIOR MANAGER - HRD AND ADMINISTRATION,
SRI. K.B.DEEPAK.

...PETITIONER

(BY SRI S N MURTHY, SR. COUNSEL, FOR
SRI SOMASHEKAR, ADVOCATE)

AND:

SRI H M DEVENDRA,
C/O SRI EERAPPA,
MAJOR,
DOOR NO.74, J.R.STORES,
RAJAJGOPAL NAGARA,
PEENYA 2ND STAGE,
BENGALURU-560058.

...RESPONDENT

(BY SRI/SMT MAITREYI KRISHNAN, C/ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 23.05.2018 IN SERIAL APPLICATION NO.9/2002 (IN I.D.NO.28/2001) AT ANNEXURE-T PASSED BY THE HON'BLE INDUSTRIAL TRIBUNAL, BENGALURU AND GRANT PERMISSION TO DISMISS THE RESPONDENT FROM SERVICE AS PER THE PROPOSED DISMISSAL ORDER DATED 13.03.2002 AT ANNEXURE-D.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16TH FEBRUARY 2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

The petitioner–Company calls in question the order dated 23.05.2018 passed in Serial Application No.9/2002 (in I.D.No. 28/2001) on the file of Industrial Tribunal, Bengaluru.

2. By the said order, the application filed by the petitioner–Company seeking approval of the penalty of dismissal imposed on the respondent–workman stands rejected.

3. The material on record indicates that the Company and the Union of its workmen entered into a settlement dated 30.08.1995 under Section 18(1) of the Industrial Disputes Act, 1947 (for short, 'the Act, 1947'). It is the case of the Company that nearly 250 workmen subscribed to the said settlement, while certain workmen did not. Nonetheless, the benefits flowing from the settlement were extended even to those who had not signed it.

4. The petitioner–Company contends that the respondent–workman, along with others, participated in an illegal strike commencing from 16.07.1998, in violation of

Clause 16 of the settlement, which mandates issuance of at least 14 days' prior notice in writing before resorting to a strike.

5. According to the petitioner-Company, the strike continued from 16.07.1998 till 03.01.1999. It is alleged that on 16.07.1998, the workmen assembled near the main gate, obstructed ingress and egress of men and materials, and disrupted the normal functioning of the Establishment. A notice dated 16.07.1998 is stated to have been issued to 104 workmen, including the respondent.

6. It is further alleged that, the respondent failed to report for duty. The petitioner-Company asserts that on 06.08.1998, the respondent engaged in picketing and demonstrations near the factory gate and raised slogans against the management and non-participating workmen.

7. The Company alleges that on 08.08.1998, the respondent obstructed a vehicle transporting workers and issued threats to those willing to attend work. It is also the case of the petitioner that despite issuance of a letter dated 27.08.1998 calling upon the respondent to resume duty, he failed to comply.

8. On 28.08.1998, the respondent is alleged to have again demonstrated near the factory gate and interfered with the movement of workers. On these allegations of misconduct and disobedience, a charge-sheet dated 12.11.1998 was issued.

9. The petitioner states that, after several months of strike, a meeting held on 01.01.1999 resulted in a decision to call off the strike with effect from 04.01.1999. An enquiry was thereafter conducted by an Enquiry Officer, who found the charges proved. Following issuance of a second show cause notice, the respondent-workman was dismissed from service with effect from 13.03.2002.

10. It is further stated that an industrial dispute in I.D. No.28/2001 concerning the same respondent was pending, and therefore, an application under Section 33(1)(b) of the Act, 1947 was filed seeking approval of the dismissal.

11. The Tribunal, framed a preliminary issue regarding the fairness of the enquiry and held that the enquiry was not fair and proper. The said finding was unsuccessfully assailed in W.P.No.27355/2005. Thereafter, evidence was adduced by both

sides on merits before the Tribunal, which ultimately held that the charges were not proved and dismissed the application.

12. Learned Senior Counsel for the petitioner would contend that, the Tribunal has erred in disbelieving the evidence of as many as eight witnesses examined on behalf of the management, who are stated to be eye-witnesses to the incident, merely on the ground that they are interested witnesses.

13. It is urged that, in matters of this nature, the occurrence having taken place within or in the immediate vicinity of the Establishment, the witnesses would necessarily be employees or persons connected with the Company, and non examination of independent witnesses cannot, by itself, be a ground to discard otherwise credible evidence.

14. Learned Senior Counsel submits that, the Tribunal has not assigned any cogent reason apart from branding the witnesses as interested, and therefore, the impugned order is liable to be set aside and approval ought to have been granted.

15. Learned counsel for the respondent-workman would support the impugned order, contending that the finding

of the Tribunal that the charges are not proved is based on appreciation of evidence and does not warrant interference. It is further contended that the dismissal is an act of victimization.

16. Attention is drawn to the cross-examination of AW.6, Retired Assistant Security Officer, who has admitted that the general shift commences at 08.30 a.m., whereas his presence at 06.00 a.m. on the relevant day is not substantiated by any attendance register.

17. Reliance is also placed on the evidence of respondent who has deposed that he did not participate in the strike on 16.07.1998 and had been absent due to a bereavement in the family of a relative, but was nevertheless denied entry on the following day unless the respondent furnished an undertaking disclaiming participation in the strike. This, according to the respondent, demonstrates victimization and falsity of the allegations.

18. It is also contended that, the respondent was not a signatory to the settlement dated 30.08.1995 and therefore cannot be accused of violating its terms.

19. The Court has considered the rival submissions and perused the material on record.

20. It is not in dispute that the domestic enquiry was held to be unfair and improper, and the said finding has attained finality. Thereafter, the parties have led evidence before the Tribunal on merits.

21. The petitioner-Company has examined nine witnesses and produced seven documents, while the respondent has examined three witnesses, including himself.

22. The consistent stand of the respondent is that he did not participate in the strike on 16.07.1998 and that his absence was on account of bereavement, and that he was subsequently denied entry unless he admitted participation in the strike by way of an undertaking.

23. The question that arises is, *"whether the evidence of witnesses connected with the Management can be discarded solely on the ground that they are interested witnesses?"*

24. The legal position is well-settled. Mere relationship or association with a party is not, by itself, a ground to reject testimony. At best, it is a factor that requires cautious

evaluation. In the present case, the petitioner has examined nine witnesses, including employees and contractors. Their evidence could not have been rejected *in limine* without proper scrutiny.

25. A perusal of the impugned order indicates that the Tribunal has discarded the said evidence on the ground that the witnesses are interested, without assigning any further reasons. Such an approach is legally unsustainable.

26. It is also to be noticed that, the alleged incidents have occurred either within or in the immediate vicinity of the factory premises. In such circumstances, the availability of independent witnesses unconnected with the Establishment would be inherently limited.

27. The Tribunal, in the considered view of this Court, has failed to evaluate the evidence on record in a comprehensive and holistic manner.

28. The discrepancy pointed out regarding the presence of the Retired Assistant Security Officer, at 06.00 a.m. cannot, by itself, be a conclusive factor to discard his testimony. It is not uncommon for senior officials to reach the premises earlier

than usual working hours in the event of industrial unrest or disturbance.

29. A substantial portion of the impugned order is devoted to narration of facts and extraction of legal principles, with little or no substantive analysis of the evidence led by the parties. Cogent reasoning is not forthcoming in disbelieving the management's witnesses.

30. In the above circumstances, this Court is of the view that the impugned order suffers from patent error in the decision-making process, warranting interference in exercise of Supervisory Jurisdiction under Article 227 of the Constitution of India.

31. Accordingly, the following:

ORDER

- (i) Writ Petition is ***allowed-in-part***.
- (ii) The impugned order dated 23.05.2018 in Serial Application No.9/2002 (in I.D. No 28/2001) on the file of Industrial Tribunal, Bengaluru is set aside.

- (iii) The matter is remanded to the Industrial Tribunal for fresh consideration.
- (iv) All contentions kept open. It is made clear that the Court has not expressed any opinion as to whether charges are proved or not; and has not expressed any opinion on the evidence led by both parties. The Tribunal has to consider the evidence afresh in accordance with law.
- (v) Registry to return the Tribunal records to the Tribunal.
- (vi) The parties shall appear before the Tribunal on **29.04.2026** without any further notice.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

GVP